IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16744 of 2004

Between:

Visakha District Plywood Workers Union Affiliated to CITU-Reg.No.1440/95 TRU Woods Pvt., Ltd. Agana Gajuwaka Mandal, Visakhapatnam
rep by Secretary K.Sudhakar.

..... PETITIONER

AND

1 The Deputy Commissioner of Labour Visakhapatnam.
2 The Assistant Commissioner of Labour Visakhapatnam.
3 M/s TRU Woods Pvt.Ltd. Talrivanipalem, Talarivanipalem Village Gaguwka Mandal Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the third respondent in declaring the lockout with effect from 13-9-2004 as illegal arbitrary and violative of the principals of natural justice and contrary to the provisions of the industrial disputes Act 1947.

Counsel for the Petitioner : MR. V.RAGHU

Counsel for the Respondents : GP FOR LABOUR for RR 1 & 2

Mr.C.R.Sridharan for R 3

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16744 OF 2004

ORDER :

Heard both sides and perused the material on record.

The petitioner claims to be the Union of the employees working in the 3rd respondent Company. It is alleged that the Management of the third respondent declared 'Lock-out' with effect from 13-09-2004 without following due process of law. Though the conciliation proceedings are initiated and the same are pending before

the respondents 1 and 2, the petitioner alleges that while the conciliation proceedings are pending, the Management of the third respondent has been removing the machinery and material from the premises of the factory and shifting them to its sister concern. It is further stated that though the petitioner Union approached the respondents 1 and 2, no steps have been taken to prevent the management from removing the machinery from the factory premises. Hence, this writ petition seeking a Writ of Mandamus declaring the action of the third respondent in declaring the 'Lock-out' as arbitrary and illegal.

At the outset, it is to be noted that under Section 7 of the Industrial Disputes Act, 1947 (for short, 'the Act') the Labour Courts are constituted under the Act for the adjudication of industrial disputes relating to any matter specified in the second schedule which includes 'illegality or otherwise of a strike or lock-out'. Thus the validity of the lock-out declared by the third respondent management is necessarily a matter to be adjudicated by the Labour Court having jurisdiction. In the light of the said efficacious alternative remedy available under the Statute, without exhausting the said remedy, the petitioner cannot maintain this writ petition.

That apart, in the counter-affidavit filed on behalf of the third respondent, it is stated that the petitioner Union is not a union of the workers of the respondent No.3 and that no trade union has ever been formed by the workmen of the third respondent Company. It is further stated that the deponent of the affidavit filed in support of the writ petition one Sri K.Sudhakar, who claims to be the General Secretary of the petitioner Union is not even an employee of the third respondent Company.

The learned Counsel for the 3rd respondent contends that the petitioner union which claims to be a General Union representing the workers employed in Visakhapatnam District and in the Ply-wood industry has no locus standi to file the writ petition.

However, the learned Counsel for the petitioner disputes the same and seeks

time for filing affidavit in Reply.

Since the matter requires investigation into disputed questions of fact and since an alternative remedy is available under the Statute, the matter does not deserve to be adjudicated in exercise of jurisdiction under Article 226 of the Constitution of India and therefore I am not inclined to keep the matter pending any longer.

The Writ Petition is accordingly dismissed granting leave and liberty to the petitioner to work out the appropriate remedy as available under law. No costs.

Needless to mention that the interim order granted on 17-09-2004 stands vacated.

_____

4th October, 2004.

Note:- CC in 2 days.

(B/O)

gbs

To

1 The Deputy Commissioner of Labour Visakhapatnam.
2 The Assistant Commissioner of Labour Visakhapatnam.
3.2CCs to G.P. for Labour, High Court of AP Bldgs, Hyderabad (OUT).

4.2CD copies

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